

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JOEY KIMBROUGH,)	
)	
Plaintiff,)	
)	
v.)	No. 1:22-cv-01217-SEB-KMB
)	
SNAP-ON CREDIT LLC, et al.,)	
)	
Defendants.)	

ENTRY AND ORDER FROM TELEPHONIC STATUS CONFERENCE

The Plaintiff, in person, and the Defendant, by counsel, appeared for a telephonic status conference on December 19, 2022, with the Magistrate Judge. The Parties discussed the status of discovery and readiness for a settlement conference.

This case is set for a settlement conference on **February 2, 2023, at 9:30 a.m. (Eastern)**, before Magistrate Judge Kellie M. Barr. The settlement conference will be conducted on Zoom. The Court will contact counsel by separate email with the information needed to participate in the conference.

ATTENDANCE AND PARTICIPATION

Unless excused by the Court, clients or client representatives with complete authority to negotiate and communicate a settlement shall attend the settlement conference along with their counsel. This requires the presence of each party, or the authorized representative of each corporate, governmental, or other organizational entity. All individuals must attend the conference in person, unless prior approval of the Court is received to attend telephonically for good cause shown. Any legal entity and/or any insurance company that is a party or is contractually required to defend or indemnify any party, in whole or in part, must have a fully authorized settlement

representative present at the conference. That representative must have final settlement authority to commit the company to pay, in the representative's own discretion, the amount of Plaintiff's most recent demand, or in the case of the representative of an insurance company that is not a party, the total amount within any policy limits, if such amount is lower than the Plaintiff's most recent demand.¹ The purpose of this requirement is to have in attendance a representative who has the authority to exercise discretion to settle the case during the settlement conference without consulting someone else who is not present.

No other persons may attend the settlement conference without leave of Court.

If there exist any liens or potential liens upon Plaintiff(s)' potential recovery, Plaintiff(s)' counsel shall fully inform themselves of the nature and amount of all such liens and shall undertake to negotiate a resolution of such liens in advance of the settlement conference and shall make arrangements to be in telephonic communication with representatives of any such lienholders during the course of the settlement conference for the purpose of negotiating a final resolution of any such liens.

PRE-CONFERENCE SUBMISSIONS TO THE COURT

At least 21 days before to the scheduled settlement conference, Plaintiff(s) shall serve a settlement demand on Defendant(s), which shall include a breakdown of any special damages sought by the Plaintiff(s), as well as a detailed explanation of the basis for any other amounts

¹ A representative of a corporate party or an insurance company who has any predetermined limits upon the extent of their authority to resolve this matter fails to satisfy this requirement. The purpose of this requirement is to ensure that each legal entity and insurance company participating in the proceeding has present a representative who can listen to the arguments and other discussion which take place during the settlement conference and make a full and independent determination regarding the appropriate settlement value of the case without reference to any person or group of persons not present at the settlement conference and who can articulate the reasons for such determination to the Court based upon their sole and independent judgment.

claimed in the demand. The demand should represent the actual initial good faith negotiating position of the Plaintiff(s) at the time it is made. **No later than 7 days after receipt of Plaintiff(s)' demand, Defendant(s) shall serve a good faith response to the demand.** Such response should represent the actual initial good faith negotiating position of the Defendant(s) at the time it is made. **The parties shall submit (not file) courtesy copies of their respective demand and response to the Court at the time of service. These should be emailed to Magistrate Judge Barr at JudgeBarrChambers@insd.uscourts.gov.** If any of the deadlines set forth in this Order conflict with the requirements for submission of a settlement demand set forth in the Case Management Plan, the requirements of this Order control.

Defendant(s) shall prepare and exchange with Plaintiff(s) a proposed draft settlement agreement with its good faith response to Plaintiff(s)' demand. The draft settlement agreement should contain all material provisions that any party believes should be included. The purpose of the draft settlement agreement is to reach agreement on as many provisions as possible and to provide a document for discussion during the conference for disputed provisions. **At least 5 business days before the settlement conference, the parties shall email a Word-version of the draft settlement to JudgeBarrChambers@insd.uscourts.gov.**

At least 5 business days before the settlement conference, each party shall submit (not file) a confidential settlement statement setting forth a brief statement of: (1) relevant facts, including any key facts that the party believes are admitted or in dispute; (2) damages, including any applicable back pay, mitigation, compensatory and/or punitive damages, or any other special damages; (3) the existence of any applicable liens; (4) any pending or anticipated dispositive or other substantive motions and citation to controlling precedent in support of their respective legal positions; and (5) a summary the parties' settlement efforts to date. The confidential settlement

statement generally should not exceed five pages, and parties should be judicious about the submission of exhibits. **Confidential settlement statements should be submitted via email to JudgeBarrChambers@insd.uscourts.gov.** There is no need to follow any email submission with a hard copy.


REQUESTS TO VACATE/CONTINUE SETTLEMENT CONFERENCE

A request to vacate or continue the settlement conference must be made by motion filed with the court **no later than 21 days prior** to the conference, except in exigent circumstances. These motions will be granted only for good cause.

* * *

Failure to comply with any of the provisions in this Order may result in sanctions.

Date: 12/21/2022


Kellie M. Barr
United States Magistrate Judge
Southern District of Indiana

Distribution:

All ECF-registered counsel of record via email

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